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March 2, 2018

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VIA ECF

Hon. John G. Koeltl
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Mercer Health & Benefits LLC v. DiGregorio et al.,
Case No. 18-cv-01805 (JGK)

Dear Judge Koeltl:

We represent Plaintiff Mercer Health & Benefits LLC in this action. On March 1, 2018 counsel for the parties appeared before Judge Engelmayer for a hearing on Plaintiff's motion for a temporary restraining order to enjoin Defendants from soliciting certain of Plaintiff's clients, prospective clients and employees, as well as from utilizing or disclosing Plaintiff's confidential information. The Court granted Plaintiff's request for a temporary restraining order, in part, and, with respect to Plaintiff's prospective clients, ordered that Plaintiff file a declaration listing those prospective clients with whom any of the individually-named defendants had contact or from whom any of the individually-named defendants solicited business on behalf of Plaintiff during their employment with Plaintiff.

Plaintiff requests that it be permitted to file the declaration ordered by Judge Engelmayer under seal.¹ Plaintiff treats the identity of its clients and prospective clients as confidential. *See Compl. Exs. B, D and F (ECF No. 1).* As set forth more fully in Plaintiff's motion for a temporary restraining order and the supporting declarations, Plaintiff has invested significant resources in developing and maintaining client relationships. Information about Plaintiff's prospective clients or target development opportunities would be valuable to Plaintiff's competitors. Therefore, Plaintiff would be at a competitive disadvantage if it were required to publish a list of its prospective clients and targets in a public filing.

Accordingly, although the ordered declaration is a "judicial document," insofar as it will be offered in connection with Plaintiff's request for a temporary restraining order, the presumption of public access here is outweighed by the interest in protecting Plaintiff's

¹ In partial compliance with the Court's order, Plaintiff is providing copies of the ordered declaration to counsel for Defendants by email and to the Court by facsimile.

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confidential list of prospective clients. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-120 (2006).

For these reasons, Plaintiff respectfully requests that the Court permit Plaintiff to file the ordered declaration under seal.

Respectfully submitted,

Littler Mendelson, P.C.

/s/ Shawn Matthew Clark

Shawn Matthew Clark

cc: All counsel of record

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